

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
BRIEF &  
APPENDIX**





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pns.

# 75-1250

To be argued by  
IVAN S. FISHER

## United States Court of Appeals

FOR THE SECOND CIRCUIT

Docket No. 75-1250

UNITED STATES OF AMERICA,

*Appellee,*

—against—

WILLIAM MOORE,

*Appellant.*

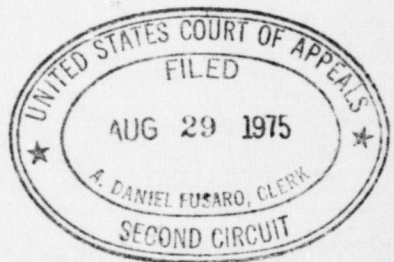
ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

### APPELLANT'S BRIEF AND APPENDIX

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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

- - - - -X

UNITED STATES OF AMERICA

-against-

Docket No. 75-1250

WILLIAM MOORE,

Defendant

- - - - -X

BRIEF FOR THE APPELLANT

STATEMENT OF THE CASE

Indictment 73 Cr. 600 charged William Moore and thirteen other defendants with conspiracy to violate the narcotics laws. Trial commenced on April 14, 1975, in the United States District Court for the Eastern District of New York, before the Hon. Jacob Mishler and a jury of twelve and two alternates. By April 21, 1975, however, one of the jurors had been excused because a cousin of hers was employed by an individual who may have been related to a fugitive co-conspirator, and another juror had suffered a heart attack, thus reducing the size of the

jury to twelve. On April 28, 1975, the Court and counsel were advised that the forewoman of the jury had become ill and the Court made a determination that she would be unable to return to jury service. William Moore, Richard Thrasher, and Billy Austin elected to proceed to verdict with a jury of eleven and upon a signed stipulation to that effect and the consent of the government, the trial continued. A mistrial was declared as to all other defendants. (Minutes of proceedings before Hon. Jacob Mishler, United States District Judge, Eastern District of New York, April 29, 1975 at 1733. Hereinafter references to the trial transcript shall be designated "Tr.")

In general terms, the government's case sketched a conspiracy in which the defendant's played fairly well-defined roles. Donald James, also known as "Keno" was a self-confessed partner with the defendant Robert Ray Daniels in a heroin acquisition and distribution network. Drugs in sizeable amounts were purchased by Daniels and James from suppliers, alleged to include the defendants Austin, Thrasher and Moore, and fugitive co-conspirator, Frank Matthews. Multi-kilogram quantities of the drug would be diluted, packaged and distributed to "workers" or street sellers, alleged to include the defendants Mims and McCallum. Packaging, distribution and collection were overseen and supervised by "lieutenants" who were paid fixed salaries, and who were alleged to include the remaining defendants, except Harriet Evans who was



the alleged bookkeeper of the organization.

The government's case relied upon the testimony of Donald James and Nancy Marbury, James' one-time paramour, who assisted from time to time in the packaging of narcotics for James in an operation referred to as a "bag-up." The government's case was buttressed by the testimony of several police officers, a police chemist, employees of the St. George Hotel in Brooklyn where some of the defendants were alleged to have resided at one time or another, tape recordings of the telephone conversations of several defendants, assorted photographs of the defendants together on apparent social occasions, and voluminous books and records in which the transactions of the organization were recorded. The case against William Moore, however, rested entirely upon the totally uncorroborated testimony of James and Marbury.

#### STATEMENT OF FACTS

James testified that he became a partner of Ray Daniels in June of 1970 (Tr. 1091). During 1970 and 1971, James stated that his organization was supplied by fugitive co-conspirator Frank Matthews. Books and records in which James identified his own handwriting reflected transactions involving the purchase of some 25 kilograms of heroin from Matthews at a price of \$25,000 per kilogram (Tr. 614). According to James, he personally had received delivery of packages of nearly pure heroin from Matthews on approximately ten separate occasions ranging in size from one half kilogram to ten kilograms. (Tr. 606-07). Ten kilogram

quantities had been obtained from Matthews on two or three occasions (Tr. 607). James claimed to have received deliveries from Matthews on an average of twice a month for the eleven months between December, 1970, and the time of his arrest in late October, 1971. (Tr. 1159-60). These deliveries averaged five kilograms in quantity, and were sufficiently pure to be diluted at a ratio of one part heroin to five parts dilutant. (Tr. 1160-61)

James further testified that his other suppliers were Richard Thrasher (Tr. 604), from who he received some seven kilograms of heroin in 1971 (Tr. 604), Billy Austin, (Tr. 622) from whom he received a total of approximately seven kilograms in 1970-71 in deliveries ranging in amounts from about one-eighth kilogram to two kilograms (Tr. 623-24; 1083); and the defendant, William Moore, with whom he claimed to have dealt from September of 1970 (Tr. 1092) through the date of his arrest in October of 1971 (Tr. 1160). According to James, he received a total of approximately fifty kilograms from Moore (Tr. 1161) delivered on approximately 20 occasions (Tr. 622) at various locations on the streets of Brooklyn. These deliveries ranged in amount from about one half kilogram to three and one half kilogram, (Tr. 622).

For the most part, according to James, deliveries were effected when James met Moore at the latter's car. On a few occasions, however, Moore would toss the package through the window of James' car. (Tr. 1138) James testified that Nancy Marbury accompanied him on three or four occasions. (Tr. 1143-44)

According to James, the "business" was divided into two



parts: a retail distribution network, in which the narcotics purchased from suppliers would be diluted, distributed, and sold on the streets; and a "weight business" in which narcotics were sold in bulk, not yet fully diluted. Two-thirds of the business was devoted to retail distribution; one-third to the distribution by weight. (Tr. 1162).

The "weight business" which James operated ultimately led to his arrest. In April, 1971, James sold one-eighth of a kilogram of heroin diluted on a ratio of one part heroin to two parts dilutant (Tr. 69) to undercover police officer Kenneth Berhhardt for \$4500.00 (Tr. 1637-40).

On cross-examination, James acknowledged that he was on probation in September of 1970, at the time he claimed to have begun dealings with William Moore. (Tr. 1098). In order to provide a legitimate "cover" for his narcotics dealings and an apparently proper account of his activities to his probation officer, James asked James Moore, William Moore's brother to "put him on the books" as an employee, at the Captain Clean Cleaners on Nostrand Avenue in Brooklyn. (Tr.1098), a business owned by William Moore. (Tr. 1095) James in fact told his probation officer that he was employed at this dry cleaning establishment. (Tr. 1100). James claimed, however, that he never learned whether in fact he had been put "on the books." (Tr. 1100)

James further testified that after his arrest in 1971, and after his agreement to cooperate with federal authorities in 1972, he had been housed at government expense in the same apartment building with his girlfriend, Nancy Marbury. (Tr. 1268-1269).

Nancy Marbury testified that she met Donald James in August, 1970. (Tr. 1305), and that from September through December, 1970 she assisted James in his "weight business." (Tr. 1307). She was a heroin addict at the time she met James (Tr. 648,1419), and, when later employed in the packaging operation known as a "baq-up", she occasionally stole heroin for her personal use. (Tr. 1436). She became romantically involved with James while he was married to Rose James, also a heroin addict. (Tr. 647-48, 1419).

Nancy Marbury claimed to have seen William Moore at a "baq-up" in early 1971. She recalled his presence, she stated, because he was wearing a "nice shirt." (Tr. 1320-21).

Nancy Marbury also testified to a delivery of narcotics from Moore to Donald James in early 1971. She claimed to have been present in James' car when Moore appeared and passed a shopping bag through the window on James' side. (Tr. 1397-98). She testified that she could not remember whether Moore had a moustache at the time of the 1971 delivery, although she acknowledged that a moustache Moore had at trial was "distinctive." (Tr. 1540-41).



On re-cross examination, James testified that he could not recall whether Moore had a moustache at the time (Tr. 1502)

Douglas Armstrong, a barber, testified that William Moore had been a customer of his since 1964 (Tr. 1860) and that Moore always had a moustache and beard. He testified that Moore's appearance at the time of trial was the same as it was in 1970-71. (Tr. 1861).

William Moore was convicted on May 2, 1975. He was sentenced to a term of imprisonment of ten years on June 20, 1975. From the judgment of conviction, William Moore appeals.

## ARGUMENT

### THE TRIAL COURT UNFAIRLY FORECLOSED THE DEFENDANT'S CROSS EXAMINATION OF DONALD JAMES.

The government's case against William Moore depended entirely upon the uncorroborated testimony of Donald James and Nancy Marbury. Thus, searching inquiry into their credibility was essential to and indeed, the keystone of Moore's defense. Accordingly, any motivation of either witness to fabricate a story falsely inculcating Moore was an appropriate area of cross examination.

On cross examination, counsel for Moore offered to prove that in 1971, James' wife Rose had deserted him and taken with her substantial quantities of cash and narcotics belonging to James. She was arrested sometime thereafter, however, and James, it was contended, had provided her bail, invited her to return to him, and given her a brand new 1971 automobile. This sequence of events was well known among James' peers, and counsel offered to prove that defendant Moore had publicly berated, embarrassed and disgraced James, calling him a "faggot" and a "girl" for having resumed his relationship with Rose.

While such insults, even in this context, might not provide a motive for false inculcation for the ordinary witness, counsel sought to show that these remarks would have been particularly meaningful to James. Accordingly, counsel endeavored to elicit from James the details of his relationships with women. It had



already been established that James' wife Rose and his girlfriend Nancy Marbury were addicted to heroin; the point of further questioning in this regard was not to spread the details of James' extra-marital sexual adventures before the jury for the purpose of scandalizing them, but in order to show that James' confidence in his own masculinity was so insecure that he was only able to establish relationships with women who were totally dependent on him as a potential source of supply for their narcotics habits, and thus that derogatory references to his masculinity by Moore in a public setting would provide the impetus for a deep and abiding hatred for Moore.

As counsel stated to the Court:

I am trying to establish, your Honor, something a little more subtle, I think. James is the kind of guy who--to whom status among his peers is very important, vis-a-vis the women he was going out with was very important.

I was trying to establish that every single woman that he was going out with were addicts and he was supplying heroin to every one of them, in order to assure--to give him the inner security to be a big man to them.

Thereby, I think delineating what I suggest could be a reason for his perjury, that William Moore publicly berated him, at one point called him a faggart [sic], a girl. To the normal type of person that may not mean a whole lot. That might be a reason to get up and falsely accuse someone.

To a man like James that is that insecure that could only go out with women that he could bind to him by providing them with narcotics, that, your Honor, goes some way in making our position more cogent.

THE COURT: Do you object to this?

MR. CADEN: I do.

THE COURT: It's an excellent psycho-analytical exposition but has no purpose in this trial. The only offer or portion of the offer that I think might--I underscore might, have to relevancy is that Mr. Moore called him a faggart [sic].

TR. 1120-21.

James was then questioned on voir dire about his recollection of any such incident. He acknowledged that Rose had deserted him, that he had posted bail for her after her arrest and had given her a car. He said he could not recall Moore referring to him as a "faggot" or a "girl," for having taken Rose back. (Tr. 1127-29). Counsel then stated:

MR. FISHER: All right. At this point, your Honor, I'd ask for permission--well, my position would be the same I'd like to inquire into the whole area.

THE COURT: I won't allow it.

MR. FISHER: But I'd like to have the witness deny this in front of the jury.

THE COURT: I think you have to, if you intend to bring in other proof to show that it did happen.

MR. FISHER: That's right.

THE COURT: All right. I will allow that. Seat the jury.

MR. FISHER: I am not allowed to inquire into the underlying circumstances?

THE COURT: No.

Tr. 1129-30

In front of the jury, James testified that he did not recall whether Moore called him a "faggot" or a "girl", but averred that "it could have happened."

Q It could have happened.

Can you tell us how it came that it could have happened?

A Well, we always kid around.

Q Oh, this would have been a joke?

A Kid--in the sense it would have been a joke. I considered it a joke.

Q Was Mr. Moore laughing when he called you a girl?



THE COURT: Objection sustained.

The witness said it could have happened. Now, the only reason I allow this kind of testimony to come into this case is because in determining the credibility of a witness, you must take into consideration, among other things, the relationship the witness bears to the defendant he's testifying against, and his state of mind and that includes any antagonism he might have, any resentment he might have against the witness--against the defendant he's testifying, and that's the only reason.

All right. Go ahead, Mr. Fisher.

Tr. 1132-33.

Stripped of the ability to inquire further into the reasons why Moore's insults may have assumed greater significance in James' mind, however, counsel was effectively foreclosed from an appropriate area of cross examination. There existed in the record, moreover, support for counsel's "psycho-analytical theory" which the court found "interesting but irrelevant." For James had acknowledged his extraordinarily extravagant and high-rolling life-style, thus indicating the importance to him of material status viz-a-viz his peers. He enjoyed surrounding himself with women, wearing fancy clothes and driving expensive automobiles. (Tr. 1092-93) In less than a year and one half, he had withdrawn from the business and spent approximately \$300,000, which he had used for the purchase of twelve brand new luxury automobiles (Tr. 705,1223) and some \$40,000 worth of jewelry. He carried substantial quantities of 50 and 100 dollar bills in one of the poorest neighborhoods in the country. (Tr. 1104) He appeared to take pride in the fact that he was a "partner" in his illicit enterprise, (Tr. 1223) and either grossly exaggerated the amounts of narcotics which had been purchased for the purpose of aggrandizing his own importance as a "big man" in the narcotics

trade, or else lied to the jury when he testified that he had no money left. For it is clear from the record that if James' testimony were true, then there exist unaccounted for millions of dollars generated as the profits of his narcotics empire.

James claimed to have obtained a total of approximately 174 kilograms of nearly pure heroin between 1970 and 1971; 110 kilograms from Matthews, 50 Kilograms from Moore, and seven kilograms each from Austin and Thrasher. (Tr. 1159-61; 604,623-24) Two-thirds of the total were diluted on a ratio of one part heroin to five parts dilutant and sold through James' street distribution network; the remaining one-third was cut on a ratio of two parts dilutant to one part heroin and sold in bulk. (Tr. 1159-61). Both James and Nancy Marbury demonstrated the method by which heroin was packaged for distribution in the street; the defendant and the government stipulated that the results showed that each glassine envelope would contain approximately 2 grains or .13 grams. (Tr. 1869-1870) A bundle of twenty-five such envelopes would thus contain 3.25 grams, and sold for \$50.00 to James' distributors. (Tr. 818) Thus, 116 kilograms (two-thirds of 174 kilograms) cut five times would yield 214,153 bundles, from the sale of which James would gross more than 10.7 million dollars.

The testimony and exhibits further established that James sold heroin by weight, cut twice, at \$4500 per eighth, or \$36,000 per kilogram. (Tr. 69, 1637-40) Thus, the remaining 58 kilograms would have yielded a gross in excess of 6.2 million



dollars. Subtracting the cost of payments to lieutenants and "workers" at \$200 each per week (Tr. 814), leaves a net profit of \$12,413,650, of which James' one half share amounts to \$6,201,825. Even subtracting the amounts which James claims to have expended there remains the staggering and unaccounted for sum of more than five and one half million dollars.

It is clear then that either James was a bald-faced liar in denying that he had any remaining assets, or, as is more probable, that he grossly distorted the size of the business in order to assure his status in the annals of crime as a large-scale operator of an immense narcotics business. This, coupled with his admissions of pecuniary extravagance and his admission that he luxuriated in his former opulent life-style showed him to be an individual to whom material status was a necessary prop for his own sense of self worth. Counsel was, therefore, entitled to explore another side of this personality which, consistently with what had already been revealed, would have demonstrated that his sense of his own masculinity depended upon relationships with women who were literally dependant upon him for their survival, and thus would have provided a context in which public derision would have been perceived by James in darkly significant terms. It was error, therefore, for the court to foreclose this area of cross examination, which went directly to James's precise motive in falsely implicating Moore.

As this Court has often recognized:

A defendant's major weapon when faced with the inculpatory testimony of an accusing witness often is to discredit such testimony by proof of bias or motive to falsify. Evidence of such matters is never collateral, for if believed it colors every bit of testimony given by the witness whose motives are bared. (citations omitted)

United States v. Blackwood, 456 F.2d 526,530 (2d Cir. 1972)

See also United States v. Lester, 248 F.2d 329 (2d Cir. 1957)

It is equally clear, moreover, that a motive to falsify may be shown either through the production of evidence in the defense case or through cross examination of the witness, People v. Brooks, 131 N.Y. 321 (1892), cited with approval, United States v. Haggett, 438 F.2d 396, 400 (2d Cir. 1971), and that

[e]vidence of all facts and circumstances which 'tend to show that a witness may shade his testimony for the purpose of helping to establish one side of a cause only.' should be received. Majestic v. Louisville & N.R. Co., 147 F.2d 621, 627 (6th Cir. 1945)

United States v. Haggett, supra, at 399

Here, while the defense was permitted to endeavor to show that James had been publicly insulted and degraded by the defendant, the court foreclosed the defense from establishing the significance of this fact as providing a motive to falsify. Denied the opportunity to demonstrate that Moore's belittlement of James assumed a special significance to James, the defendant was effectively foreclosed from proving a motive to falsify



directed apecifically at him. Accordingly, his conviction must be reversed and a new trial ordered.

CONCLUSION

FOR ALL OF THE FOREGOING REASONS THE CONVICTION OF THE DEFENDANT SHOULD BE REVERSED AND A NEW TRIAL ORDERED.

Respectfully submitted,

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(212) 925-8844

of counsel:

Ivan S. Fisher  
Jeffrey Dwight Ullman

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A P P E N D I X  
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## CRIMINAL DOCKET

A 1

75-358-257-340-361-754-157 TRAVIA, J.

| TITLE OF CASE                          |  | ATTORNEYS                  |
|--|--|----------------------------|
| THE UNITED STATES                      |  | For DEFT GILMORE           |
| NILLY JUSTIN                           |  | Robert Schmukler- 121      |
| JOHN BRYANT                            |  | Schermerhorn St. Brooklyn  |
| ALVIN COOPER                           |  | 834-1144                   |
| RAY DANIELS (DEFT SCHULTE) XOS. POLITE |  | for deft. BRYANT:          |
| LARRY STEWART                          |  | Jeffrey Ullman, 401 Bdway. |
| RICHARD THRASHER                       |  | NYC. 10013-925-8844        |
| CLINTON WHITE                          |  | For Defendant: MCCOLLUM-   |
| RICHARD ROSENKRANZ-66 Cour             |  |                            |
| Street- Brooklyn, N.Y.                 |  |                            |
| 875-9440                               |  |                            |
| for deft. MIMS: Bruce Sper             |  |                            |
| 60 E. 42nd St. NYC. 661-1              |  |                            |

Violations of R.C.L.P. 1967

| ABSTRACT OF COSTS     |           | CASH RECEIVED AND DISBURSED |                           |          |          |
|-----------------------|-----------|-----------------------------|---------------------------|----------|----------|
|                       | AMOUNT    | DATE                        | NAME                      | RECEIVED | DISBURSE |
| Fine, DANIELS         | 25,000.00 | 6/27/75                     | Notice of appeal (NO FEE) |          |          |
| Clerk, THRASHER       | 10,000.00 |                             | RICHARD THRASHER          |          |          |
| Marshal,              |           | 6/27/75                     | Notice of Appeal          | 5        |          |
| Attorney,             |           | 6/30/75                     | Paid to Treasurer         |          | 5        |
| Commissioner's Court, |           |                             |                           |          |          |
| Witnesses,            |           |                             |                           |          |          |

| DATE    | PROCEEDINGS   |
|---------|---|
| 6/19/73 | Superseding   |
| 6/19/73 | Before JUDD, J. Indictment filed.   |
| 6/22/73 | Notice of Readiness for Trial filed. (W. GILMORE, J. FERNANDEZ, J. BRYANT, A. COOPER, R. EVANS, R. DANIELS)                           |
| 6/22/73 | Petition for Writs of Habeas Corpus Ad Prosequendum filed (H. EVANS & J. FERNANDEZ)   |
| 6/22/73 | TRAVIA, J. Writs issued, ret. 7/2/73. (H. EVANS & J. FERNANDEZ)   |
| 6/22/73 | Notice of Readiness for Trial filed (THRASHER, STEWART, POLITE, MOORE, J. GILMORE, J. FERNANDEZ)                                      |
| 7/2/73  | Notices of Appeal filed. (for defts MOORE, DANIELS, BRYANT, THRASHER, J. GILMORE and STEWART)   |
| 7/2/73  | Order appointing counsel filed. (LARRY STEWART)   |
| 7/2/73  | Order appointing counsel filed. (for defts DANIELS, BRYANT, and MOORE and order appointing counsel for the indictment and each other) |

| DATE   | PROCEEDINGS  |
|--------|--|
|        | plea of not guilty-bail cont'd to LINDA & LORE-Deft DANIELS, bail set at \$10,000 surety Bond Defts COOPER & POLITE present without counsel.   |
|        | Court enters a plea of not guilty Court assigns J. Barsalacchia as counsel for Deft-Bail set at \$10,000.00 Surety Bond for COOPER-Bail cont'd as to De Polite-Deft THRASHER, POLITE & G. GILLMORE all counsel present-Deft arraigne and enters a plea of not guilty-bail cont'd-Deft LARRY STEWART present without counsel Court enters a plea of not guilty Court assigns G. WEISS as counsel for Deft-Bail set at \$10,000.00 Surety Bond-30 days for motion is granted to all Defts-Defts AUSTIN, GILMORE, LINTON, MATTHEWS and WHITE not present. |
| 7/73   | Petition for Writ of Habeas Corpus AdProsequendum filed (W. GILMORE)   |
| 7/73   | By TRAVIA, J.- Writ issued, ret. 7/9/73.   |
| 7/73   | By TRAVIA, J.- Order appointing counsel filed. (COOPER) & (POLITE)   |
| 9/73   | Before TRAVIA, J.- Case called- Deft GILMORE and counsel present-Deft waives reading of indictment and enters a plea of not guilty-10 days for motions-De to get new counsel-Deft in state custody.-Deft EVANS & FERNANDEZ and counsel present-Deft waive reading of the indictment and each enters a plea of not guilty-Bail set at \$10,000.00 for Deft EVANS & -Bail cont'd as to Deft FERNANDEZ 30 days for motions  |
| 9/73   | Notice of Appearance filed. (EVANS)  |
| 7/73   | Writ ret'd and filed. Executed. (W. GILMORE and EVANS)   |
| 3/73   | Before TRAVIA, J.- Case called- On motion of AU'SA Dearie for Bench Warrant- Bench Warrant ordered and bench warrant issued (MATTHEWS)   |
| 3-73   | Notice of Motion filed for Bill of Particulars, Discovery (Deft Polite) (ret. 7-26-73)   |
| 3-73   | Notice of Motion filed for Bill of Particulars, Discovery (Deft COOPER) ret. July 26, 1973.  |
| -26-73 | Before TRAVIA J - Case called - motion for Bill of Particulars & Inspection <del>marked off</del> Marked Off Calendar. (Defts COOPER & POLITE)   |
| 8/73   | Notice of Motion filed, ret. 9/21/73 re: for a bill of particulars, etc. (RICHARD THRASHER)  |
| 1-73   | Before Travia J - Case called - Motion for Bill of Particulars marked off. (Richard Thrasher)  |
| 2/73   | Writ ret'd and filed- Executed (FERNANDEZ)   |
| 1-73   | Before Travia J - Case called - Deft Clinton White & counsel E. Kelly of Legal Aid present - Deft arraigned on this case & relating case 73 CR 101 and enters a plea of not guilty on both cases - order appptg. counsel signed.   |
| 1-73   | By Travia J - Order filed appptg counsel for Deft WHITE  |



## CRIMINAL DOCKET

A 3

| DATE     | PROCEEDINGS   |
|----------|---|
| 12-20-73 | Before TRAVIA, J. - Case called- Deft Austin brought into court on a bench warrant. Deft present. Bail out counsel- Court appoints John C. Corbett as counsel- Deft waives reading of the indictment and the court enters a plea of not guilty- Bail fixed at \$100,000 Surety Bond   |
| 12-23-73 | Bench warrant ret'd and filed- executed(AUSTIN)(inserted into this file)  |
| 12-13-73 | By TRAVIA, J. - Order appointing counsel filed(AUSTIN)(inserted into this file)   |
| 1-24-74  | Letter dated Jan 23, 1974 filed received from Chambers from Asst Raymond Dearie (re bail of deft Wm. Moore)   |
| 1-24-74  | By WEINSTEIN J - Order filed that the Govt will prepare the necessary Order as requested by the Clerk after obtaining the consent of the deft. (Order filed 1/30/74)  |
| 1/25/74  | Before TRAVIA, J. - Case called- Deft not present- (deft J. POLITE)- Deft in custody but his atty present-Hearing held-Adj'd to 2/1/74  |
| 2-1-74   | Before TRAVIA J - case called - motion for reduction of bail (JOSEPH POLITE) - Bail conditions amended to \$100,000.00 personal recognizance bond to be signed by Mr. & Mrs. John Polite and Mr. Joseph Polite plus deed to the house at 21 Eldert Street, Brooklyn, N.Y.   |
| 2-8-74   | By WEINSTEIN, J. - Order filed that the order of Judge Rosling dated 1-13-72, releasing bail in the amount of \$7,500 to John C. Moore relative to 68CR349 and 68CR351 is hereby vacated- and the Clerk shall cancel the check in the amount of \$7,500 and shall credit \$7,500 to John C. Moore and retain custody of this amount as partial security for the \$250,000 bond previously executed by the deft William Moore and consent of the U.S. Attorney is to be affixed before this order becomes effective (Order filed in 73 CR 101) (consented to by A.U.S.A. Dearie on 2-8-74) |
| 3-12-74  | Notice of Motion filed & Memorandum of Law in support of motion for Discovery as to deft Billy Austin (ret. March 15, 1974)   |
| 3/15/74  | Before TRAVIA, J. - Case called- Motion for an order directing certain discovery and inspection, etc.-Motion consented to. (BILLY AUSTIN)   |
| 3-28-74  | Magistrate's file 74 M 435 inserted into CR file.   |
| 4-3-74   | Letter dated 3-28-74 received from chambers of Judge Travia and filed as a motion for reduction of bail. (Billy Austin)   |
| 4-3-74   | Letter dated 3-29-74 received from chambers of Judge Travia and filed as a motion for reduction of bail. (Billy Austin)   |
| 4-3-74   | Letter dated 4-2-74 from Atty John C. Corbett received from chambers of Judge Travia and filed as a motion for reduction of bail. (Billy Austin)  |

- Over -

- 17-74 Before TRAVIA, J.- Case called- Deft BILLY AUSTON and counsel present-Deft's motion to reduce bail to \$25,000 Surety Bond granted-Deft to report every Friday Morning at 11:00 A.M. to U.S. Attorney- Deft CLINTON WHITE and couns present-Deft's motion to reduce bail to \$2,500 Surety Bond <sup>granted</sup>-Case adjd to 6-7-74 for status report
- 7/74 Before TRAVIA, J.- Case called- Case held in abeyance -Subject to a telephone call
- 1-74 Notice of Motion filed compelling defts DANIELS, EVANS, COOPER & BRYANT to furnish handwriting exemplars, etc (returnable 8-9-74)
- 7-74 Petition for Writ of Habeas Corpus Ad Prosequendum filed (Evans)
- 7-74 By NEAHER, J - Writ Issued, ret. 8-16-74 (Evans)
- 9-74 Before NEAHER, J - case called - adjd to 8-16-74(Austin-for compelling defts to furnish handwriting exemplars, etc.)
- 16-74 Before Neshier, J- case called - motion argued and motion granted - Order to be submitted by the atty for the Govt.
- 16-74 Motion granted on specified conditions. Order to be submitted by the Govt (see Judges notation on reverse of motion papers)
- 20-74 Petition for writ of habeas corpus ad prosequendum filed (COOPER)
- 20-74 By NEAHER, J.- Writ issued, ret. 8-26-74 (COOPER)
- 21-74 Writ ret'd and filed - Executed (Evans)
- 21-74 Writ ret'd and filed- executed(COOPER)
- 11-74 By NEAHER, J - Order filed that the defts Daniels, Harriet Evans, Cooper & John Bryant furnish handwriting exemplars in the above case, etc. (see Order for details) Order dated Aug. 19, 1974 but received and filed in Clerks Office on 9-11-74.
- 18/74 Notice of Motion, ret. Sept. 27, 1974 re: to dismiss the indictment as to deft Austin filed.
- 18/74 Memorandum on behalf of deft Billy Austin in Support of Motion to dismiss the indictment filed.
- 27-74 Before TRAVIA J - case called - motion to dismiss is withdrawn(Austin) defts motion for reduction of bail granted - cash bail of \$2500.00 to be posted.
- 30-74 Notice of motion to dismiss filed- and Memorandum of Law filed(CLINTON WHITE)
- 4-74 Before Travia J - case called - motion to dismiss withdrawn (White)
- 10-21-74 By Schiffman, Magistrate - Order for acceptance of cash bail filed (BILLY AUSTIN)
- 10/74 Writ ret'd and filed- executed (ALVIN COOPER)
- 14-74 Magistrate's file 74 M 1518 inserted into CR file.



D. C. 109

| DATE    | PROCEEDINGS  | A | 6 |
|---------|--|---|---|
| 2/14/75 | Writ ret'd and filed- executed (STEWART)   |   |   |
| 2-25-75 | Writ ret'd and filed - executed (COOPER)   |   |   |
| 2/26/75 | Before MISHLER, CH. J. - Case called- Motion to modify bail argued-Motion granted<br>Bail modified to the release of the homes of J. Dunham and L. Mims as<br>to the deft J. Mims  |   |   |
| 2/28/75 | Notice of Motion, PAX for lack of a fast and speedy trial filed. (no ret.<br>date).  |   |   |
| 4/75    | By MISHLER, CH.J.- Order filed that the deed to property owned by Mr. and<br>Mrs. Dunham be released and exonerated as collateral to secure bail, etc.<br>(MIMS) (order entered in 73CR101)  |   |   |
| 4/6/75  | Notice of motion to dismiss filed ret. 3/14/75 (ALVIN COOPER)  |   |   |
| 4/7/75  | Petition of Habeas Corpus Ad Prosequendum filed (A. COOPER)  |   |   |
| 4/7/75  | By PLATT, J.- Writ issued, ret. 3/14/75  |   |   |
| 4/10/75 | Notice of motion to dismiss for lack of speedy trial filed (EVANS)   |   |   |
| 4/14/75 | Before MISHLER, CH.J.- Case called- Pre-trial conference held- All counsel<br>present except Nancy Rosner and John C. Corbett- All depts present except<br>deft Austin, Evans, Fernandez, Mathews, Polite, Stewart and Thrasher-<br>deft Bryant, Mims and Moore agree to have their counsel represent them<br>and are aware of a possible conflict of interest-Motion by deft McCollum<br>to release her bail money is denied-Govt will relate to depts pretrial<br>discovery and inspection- Hearing on motion to suppress set down for<br>3/20/75 at 9:30 A.M.- All motions returnable by 4/4/75 at 2:00 P.M.<br>Trial scheduled for 4/14/75- Pro-se speedy trial motion by deft Fernandez<br>admitted- decision reserved- The Govt to comply with the deft COOPER'S<br>request as to discovery and inspection |   |   |
| 4/14/75 | Financial affidavit filed (GILMORE)  |   |   |
| 4/14/75 | By MISHLER, CH.J. - Order appointing counsel filed (GILMORE)   |   |   |
| 4-20-75 | Before Mishler Ch J - case called and motion to suppress is added<br>to 4-4 75 at 2:00 PM.   |   |   |
| 4-27-75 | Petition for Writ of Habeas Corpus Ad Prosequendum filed (EVANS,<br>STEWART & FERNANDEZ)   |   |   |
| 4-27-75 | BY MISHLER, CH J - Writs issued as above, ret. 4-11-75.  |   |   |
| 4-3-75  | Notice of Motion filed (Clinton White) for dismissal of the Indictment<br>(ret. 4-18-75)   |   |   |
| 4-4-75  | Before MISHLER, CH J - case called - hearing on motion to suppress<br>held - the following attys were present at the hearing: John Corbett<br>for deft Austin; Alan Scriber for deft Bryant; Treavor Headley for deft<br>Cooper; deft Albert Kreigher for deft Daniels; Gilbert Fennell for deft   |   |   |



| DATE    | PROCEEDINGS  |
|---------|--|
|         | Evans; Robert Schmukler for deft Gilmore; Richard Rosenkranz for deft McCallum; Peter Passalacqua for deft Polite; Stephen Flamhaft for deft Stewart; Joanna Seybert Of Legal Aid for deft White; Deft WHITE present in court - Hearing concluded - all briefs on suppression hearing by 4-8-75.   |
| 4-7-75  | Notice of Motion filed for suppressing evidence(recvd from Chambers) Evans & Daniels.  |
| 4-8-75  | By MISHLER, CH J - Notice of Appearance and substitution of counsel filed (deft John Bryant)Jeffrey Ullman in place of Alan Scribner. (signed by Judge Mishler on 4-3- but received and filed in Clerks Office on 4-8-75)  |
| 4-8-75  | By MISHLER, CH J - Order to Show Cause filed as to why all sealed tape recorded conversations made should not be delivered forthwith for use in forthcoming trial <sup>ret.</sup> ( <del>XXXXXXXXXX</del> 4-10-75) and Affidavit of THOMAS ARMET filed ; together with Govts Memorandum of Law in support of wiretap etc. filed; with proof/service. |
| 4-8-75  | Defendant Bryant's Memorandum of Law filed in support of motion to suppress filed.   |
| 4-10-75 | Defts (John Bryant) supplemental Memorandum of Law on the question of whether the testimony of Donald James is suppressible, etc. filed.   |
| 4/11/75 | Govt's memorandums in opposition of motions to dismiss filed (4) (WHITE)(AUSTIN)(FERNANDEZ) (DANIELS, EVANS)   |
| 4-14-75 | Govts Memorandum of Law filed in opposition to motion to suppress evidence obtained under search warrant.  |
| 4/14/75 | Voucher for compensation of counsel filed (COOPER)   |
| 4-14-75 | By MISHLER, CH J - Memorandum of Decision and Order filed denying defts motion to suppress evidence(EVANS, DANIELS & JOHN BRYANT)  |
| 4-14-75 | Before MISHLER, CH J - case called - all defts present with counsels except for defts GATTIS HINTON & FRANK MATTHEWS-trial ordered and BEGUN - Jurors selected and sworn - Trial contd to 4-15-75.   |
| 4-14-75 | Notice of Appearance filed (MIMS)  |
| 4/15/75 | Before MISHLER, CH,J.- Case called- Defts and counsel present- excep defts HINTON and MATTHEWS- Trial resumed-Trial contd to 4/16/75 at 10 A.M.  |

- 16-75 Before MISHLER, CH J - case called - all defts present with counsel except defts Hinton & Matthews - Trial resumed - Juror #6 excused by the court with the consent of the defts - motion argued by defts Bryant, Mims, Moore, Polite & White for a mistrial is denied - trial contd to 4-17-75.
- 16-75 Before MISHLER, CH J - case called motion to dismiss argued - also pro se motions by defts DANIELS & EVANS to dismiss - Motions argued and decision reserved.
- 7775 Before MISHLER, CH.J.- Case called- all defts present with counsel except defts Hinton and Matthews-Trial resumed-Motion by defts Cooper, McCollum, Mims and Moore for severance denied-Motion argued by deft Thrasher for severance denied-Trial contd to 4/21/75 at 10:00 A.M.
- 21-75 Letter filed dated 2-18-75 re deft John Bryant from Jeffrey Ullmann, Esq. counsel for deft (received from Chambers and ret'd as requested)
- 21-75 Before MISHLER, CH J - case called - all defts present with counsels except defts HINTON & MATTHEWS - trial resumed - Trial contd to 4-22-75.
- 22-75 Before MISHLER, CH J - case called - all defts present with counsels - except defts HINTON & MATTHEWS - trial resumed and contd until 1:00 P.M. because of the illness of deft AUSTIN - at 1:10 PM the case was adjd to 4-23-75 at 10:00 AM because deft AUSTIN was in the hospital.
- 23/75 Before MISPLER, CH.J.- Case called- Defts present with counsel except for de Hinton and Mathews-On motion of govt defts Cooper and Polite are severed from trial-Trial resumed at 2:20 P.M.-Trial contd to 4/24/75 at 10:00 A.M.
- 24/75 Before MISHLER, CH.J.- Case called- Defts and counsel present except defts Hinton, Matthews, Cooper and Polite - Trial resumed- Motion by deft Daniels for severance and mistrial denied- Trial contd to 4/25/75 at 10:00 A.M.
- 725/75 Before MISHLER, CH.J.- Case called- Defts and counsel present- except defts Hinton, Matthews, Cooper and Polite- Trial resumed- Trial contd to 4/28/75 at 10:00 A.M.
- 128/75 Writ ret'd and filed- executed (COOPER)
- 287/75 Before MISHLER, CH.J.-Case called- Defts present with counsel except defts Hinton, Matthews, Cooper and Polite-Juror #1 reported ill- trial to be contd on 4/29/75 at 10:00 A.M.
- 29/75 Before MISHLER, CH.J.- Case called- Defts present with counsel except defts Hinton, Matthews, Cooper and Polite-On motion of defts Bryant, Daniels, Evans, Fernandez, Gilmore, McCollum, Mims, Stewart, and White for a mistrial is granted defts severed from trial- On consent of defts Moore and Thrasher and govt trial will continue on with 11 jurors-stipulation signed-trial resumed



| DATE    | PROCEEDINGS  |
|---------|--|
|         | Trial as to other defts will begin on 5/5/75 at 10:00 A.M.-Govt rests Motion by defts Austin, Moore and Thrasher for judgment of acquittal denied-Defts Austin and Thrasher rests-Deft Moore rests-Trial contd to 4/30/75 at 10:00 A.M.  |
| 4-30-75 | Pursuant to Federal Rule Criminal (23(b) consent to continue the trial in this case to verdict with 11 jurors and accept the unanimous verdict of eleven jurors as the verdict filed.Approved by Chief Judge Mishler (received from Chambers and ret'd as requested)   |
| 4/30/75 | Before HISHLER, CH J. - case called - defts AUSTIN, MOORE and THRASHER present with counsel-Trial resumed - Govt and deft rests-Motion by deft for judgment of acquittal denied-Application by deft Austin to have his bail reinstated and to be released-motion granted-trial contd to 5/1/75 10:00 A.M.  |
| 5-1-75  | Before HISHLER, CH J. - case called - defts AUSTIN, MOORE & THRASHER present with counsel - trial resumed - at 11:35 AM the jury retired for deliberations - at 6:47 PM the jury ret'd and asked to suspend for the day and to return for further deliberations on 5-2-75 at 9:30 am - bail reinstated as to deft AUSTIN and no one to be released.  |
| 5-1-75  | By HISHLER, CH J. - Order of sustenance filed.   |
| 5-2-75  | Before HISHLER, CH J. - case called - defts AUSTIN, MOORE & THRASHER present with attys - trial resumed - at 9:30 AM jury continues deliberations - at 3:50 PM jury returned and rendered a verdict of guilty on count 1 and 3 as to deft THRASHER & guilty on count 1 as to deft MOORE. Jury could not reach a verdict as to deft AUSTIN and the court declared a mistrial as to deft AUSTIN - Pre Trial as to deft AUSTIN set down for May 5, 1975 at 10:00 am - Jury polled - jury discharged - trial concluded - sentences adj'd without date as to defts THRASHER & MOORE- all motions reserved until time of sentences, Decision reserved as to Govts application to increase bail as to defts MOORE & THRASHER - counsel for defts MOORE & THRASHER to appear in court with the defts on May 5, 1975 by 4:00 P.M. |
| 5-2-75  | By HISHLER, CH J. - Order of sustenance filed (Lunch -13 persons)  |
| 5-5-75  | Before HISHLER, CH J. - case called - defts AUSTIN, BRYANT, DANIELS, EVANS, FERNANDEZ, GILMORE, McALLUM, MIMS, STEWART & WHITE present with attys - deft DANIELS withdraws plea of not guilty and after being advised of his rights by the court and on his own behalf   |

| DATE    | PROCEEDINGS  | A 10 |
|---------|--|------|
|         | enters a plea of guilty to count 1 - sentence adjd without date.   |      |
|         | Trial to start on May 6, 1975 as to defts AUSTIN & WHITE.  |      |
| 5-6-75  | 13 Volumes of stenographic transcripts filed   |      |
| 5-5-75  | By MISHLER, CH J - Memorandum of Decision and Order filed denying motions to suppress. (EVANS & DANIELS)   |      |
| 5-75    | By MISHLER, CH J - Memorandum of Decision and Order filed denying motion for leave to reargue the decision of April 14, 1975 (BRYANT)  |      |
| 6-75    | Before MISHLER, CH J - case called - defts THRASHER & MOORE present - with attys - bail conditions contd as to debt THRASHER after the motion by AUSA Caden to increase bail - bail conditions contd as to debt MOORE after reviewing bail bonds.  |      |
| 6-75    | Letter filed received from Chambers dated May 6, 1975 to counsel for defts Bryant, Gilmore, McCallum & Mims etc.   |      |
| 7-75    | Stenographers transcript dated May 2, 1975 filed (pgs 2154 to 2190)  |      |
| 7-75    | Voucher for compensation of expert services filed (Voucher #50388)   |      |
| 7-75    | Voucher for compensation of expert services filed (voucher 50240)  |      |
| 8/75    | Writ retd and filed - executed (FERNANDEZ)   |      |
| 9/75    | Five (5) stenographers Transcripts dated 5/5/75 filed  |      |
| 5-12-75 | Stenographers transcript filed dated May 6, 1975   |      |
| 12-75   | BY MISHLER, CH J - Order filed that the debt (DANIELS) be permitted to attend the funeral parlor at which his late brother, Joseph Daniels, rests, all within the security limits deemed advisable by the office of the U.S. Marshal for the Eastern District of New York. Certified copy to Marshal.  |      |
| 5-14-75 | Before MISHLER, CH J - case called - debt BRYANT & counsel Jeffrey Ullman present - The Court completed the advice of rights to debt BRYANT.   |      |
| 15-75   | Order retd and filed - Executed (deft Bryant)  |      |
| 6/21/75 | Before MISHLER, CH.J. - Case called - Deft MOORE present with counsel Application by debt to modify bail - Bail modified by permitting the deed from the home of Cleo Murrell in lieu of the cash bail of \$7,500.00   |      |
| 6-22-75 | Bench Warrant retd and filed - Unexecuted as to debt Bonnie McCallum   |      |
| 11/75   | Stenographers Transcript dated 5/5/75 filed  |      |
| 18-75   | By MISHLER, CH J - <del>xxxx</del> Order releasing bail filed (WM. MOORE)  |      |
| 20/75   | Before MISHLER, CH.J. - Case called - Defts and counsel present - debt DANIELS sentenced to imprisonment on count 1 for 15 years pursuant to T-18 U.S.C. Sec. 4208(a)(2) and fined \$25,000.00 - also special parole term of 3 years - said prison term to run consecutive to state sentence now being |      |



| DATE               | PROCEEDINGS  |
|--------------------|--|
|                    | served by the deft- on motion of A.U.S.A. Brewster the remaining counts are dismissed- Deft WILLIAM MOORE sentenced to imprisonment for a period of 10 years- court advised deft of his right to appeal- On motion of A.U.S.A. Brewster the indictment is dismissed as to defts COOPER, FERNANDEZ, NIMS, BRYANT, AUSTIN, POLITE, STEWART, MCCALLUM and EVANS |
| 6/20/75            | Judgment and Commitment filed - certified copies to Marshal (DANIELS)  |
| 6/20/75            | Judgment and Commitment filed - certified copies to Marshal (MOORE)  |
| 6/20/75            | By MISHLER, CH.J. - Orders of dismissal filed (COOPER, FERNANDEZ, NIMS, BRYANT, AUSTIN, POLITE, STEWART, MCCALLUM and EVANS)   |
| 6-20-75            | Before MISHLER, CH J - case called - sentence adjd to June 27 <sup>@</sup> 9:30 1975 as to deft RICHARD THRASHER   |
| 6/23/75            | By MISHLER, CH.J.- Copy of Order filed releasing bail (MCCALLUM)   |
| 6/27/75            | Before MISHLER, CH.J.- Case called- Deft and counsel present- Deft THRASHER sentenced to imprisonment for a period of 10 years and fined \$10,000.00 on count 1 and a term of imprisonment of 10 years on count 3- said sentences to run concurrently- Court advised deft of his right to appeal- Clerk to file notice of appeal without fee- bail contd     |
| 6/27/75            | Judgment and Commitment filed- certified copies to Marshal (THRASHER)  |
| 6/27/75            | Notice of appeal without fee filed (THRASHER)  |
| 6/27/75            | Docket entries and duplicate of notice of appeal mailed to court of appeals  |
| 6/27/75            | Notice of appeal filed (WILLIAM MOORE)   |
| 6/27/75            | Docket entries and duplicate of notice of notice of appeal mailed to court of appeals  |
| 6-30-75            | Voucher for compensation of counsel filed (POLITE)   |
| 7/7/75             | Vouchers for compensation of counsel filed (MCCOLLUM and FERNANDEZ)  |
| 7/7/75             | Voucher for compensation of counsel filed (COOPER)   |
| 7/9/75             | Order received from court of appeals and filed that record be docketed on or before 7/16/75 (MOORE and THRASHER)   |
| 7/11/75            | 75 M 1082 is inserted in CR file.  |
| 7-16-75            | Record on Appeal certified and mailed to the Court of Appeals (THRASHER)   |
| <del>7-16-75</del> | <del>xx Docket entries and duplicate of Notice</del>   |
| 7-21-75            | Acknowledgment received from the Court of Appeals and filed for receipt of Index to Record on Appeal re deft THRASHER.   |

| DATE    | PROCEEDINGS  | A | 12 |
|---------|--|---|----|
| 7/21/75 | Writ retd and filed- executed  |   |    |
| 7-21-75 | By MISHLER, CH J - Order filed releasing bail (Austin)   |   |    |
| 8/1/75  | Before MISHLER, CH.J.- Case called- Defts and counsel present- On motion c<br>A.U.S.A. Gould the indictment is dismissed as to defts WHITE and GILMORE |   |    |
| 8/1/75  | By MISHLER, CH.J.- Order of dismissal filed(WHITE and GILMORE)   |   |    |
| 8-21-75 | Voucher for compensation of counsel filed (AUSTIN)   |   |    |



6712, 111

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

33 CR 600

UNITED STATES OF AMERICA

-against-

BILLY AUSTIN  
JOHN BRYANT  
ALVIN COOPER  
ROBERT RAY DANIELS, a/k/a "Dutch Schultz"  
HARRIET EVANS, a/k/a "Harriet Clark"  
JOSEPH FERNANDEZ, a/k/a "Slim"  
WALTER GILMORE  
GATTIS HINTON  
FRANK MATTHEWS  
BONNIE MC CALLUM  
GERALD MIMS, a/k/a "Pop"  
WILLIAM MOORE, a/k/a "B. I."  
JOSEPH POLITE, a/k/a "Junior"  
LARRY STEWART  
RICHARD THRASHER  
CLINTON WHITE, a/k/a "Angel",

SUPERSEDING  
INDICTMENT

Cr. No. \_\_\_\_\_

T. 21, U.S.C. §173  
T. 21, U.S.C. §174  
T. 21, U.S.C. §346  
T. 21, U.S.C. §843  
T. 18, U.S.C. §2

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D. N.Y.

★ JUN 19 1973 ★

Defendants. TIME A.M. \_\_\_\_\_  
P.M. \_\_\_\_\_

THE GRAND JURY CHARGES:

COUNT ONE

From on or about the 1st day of June 1970 up to and including the 17th day of January 1973, both dates being approximate and inclusive, within the Eastern District of New York, and elsewhere, the defendants BILLY AUSTIN, JOHN BRYANT, ALVIN COOPER, ROBERT RAY DANIELS, a/k/a "Dutch Schultz", HARRIET EVANS, a/k/a "Harriet Clark", JOSEPH FERNANDEZ, a/k/a "Slim", WALTER GILMORE, GATTIS HINTON, FRANK MATTHEWS, BONNIE MC CALLUM, GERALD MIMS, a/k/a "Pop", WILLIAM MOORE, a/k/a "B.I.", JOSEPH POLITE, a/k/a "Junior", LARRY STEWART, RICHARD THRASHER, CLINTON WHITE, a/k/a "Angel", together with Donald James, named herein as a co-conspirator but not as a co-defendant, and others known and unknown to the Grand Jury, unlawfully, wilfully and knowingly did combine, conspire, confederate and agree together and with each other to violate prior to May 1, 1971, Sections 173 and 174 of Title 18, United States Code,

... said conspiracy that prior to May 1, 1971 the defendants unlawfully, wilfully and knowingly would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of large amounts of heroin, a narcotic drug, after such narcotic drug had been imported and brought into the United States, knowing the same to have been imported and brought into the United States contrary to law.

(3) It was further a part of said conspiracy that the defendants would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities.

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed within the Eastern District and elsewhere:

OVERT ACTS

(1) In or about December 1970, in the vicinity of Tapscott Street and Dumont Avenue, Brooklyn, New York, the defendant FRANK MATTHEWS met with the defendant ROBERT RAY DANIELS, a/k/a "Dutch Schultz" and the defendant HARRIET EVANS, a/k/a "Harriet Clark".

(2) On or about April 9, 1971, in Brownie's Bar on St Marks Avenue, Brooklyn, New York, the defendant RICHARD THRASHER met with Donald James, named herein as a co-conspirator but not as a defendant.

(3) In or about October 1970, in the vicinity of Montgomery Street and Rogers Avenue, Brooklyn, New York, the defendant WILLIAM MOORE, a/k/a "B.I." met Donald James, named herein as a co-conspirator but not as a defendant.



COUNT THREE

On or about the 9th day of April 1971, within the Eastern District of New York, the defendant ROBERT RAY DANIELS, a/k/a "Dutch Schultz" and the defendant RICHARD THRASHER did receive, conceal, sell and facilitate the transportation, concealment and sale of approximately 150.4 grams of heroin hydrochloride, a narcotic drug, after it had been imported and brought into the United States, knowing the same to have been imported and brought into the United States contrary to law.

(Title 21, United States Code, Section 173 and Section 174;  
Title 18, United States Code, Section 2.)

United States of America vs.

## United States District Court for

EASTERN DISTRICT OF NEW YORK

DEFENDANT

WILLIAM MOORE, a/k/a "B.I."

M'FILED

DOCKET NO.

73 CR 600

## JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245 (5/74)

In the presence of the attorney for the government  
the defendant appeared in person on this date

| MONTH | DAY | YEAR |
|-------|-----|------|
| June  | 20, | 1975 |

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

IVAN FISHER, ESQ.

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that  
there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY, in Count 1FINDING &  
JUDGMENT

Defendant has been convicted as charged of the offense(s) of violating T-21, U.S.C. Sec. 173, 174, 846, in that from on or about June 1, 1970, up to and including Jan. 17, 1973, both dates being approximate and inclusive, the defendant with others unlawfully and wilfully did combine, conspire and confederate to violate prior to May 1, 1971, T-21, U.S.C. Sec. 173, 174 and on and after May 1, 1971 to violate T-21, U.S.C. Sec. 812, 841(a)(1), 841(b)(1)(A), in that it was part of the conspiracy to wilfully, unlawfully and knowingly receive conceal buy, sell, and facilitate the transportation, concealment and sale of large amounts of heroin, a narcotic drug, after such narcotic drug had been imported into the United States.

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 10 years.

SENTENCE  
OR  
PROBATION  
ORDERSPECIAL  
CONDITIONS  
OF  
PROBATIONADDITIONAL  
CONDITIONS  
OF  
PROBATIONCOMMITMENT  
RECOMMEN-  
DATIONFILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D. NY

JUN 20 1975

JUL 1 1975

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years, permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and commends.

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge☐ U.S. Magistrate

(Date)

6/23/75

110



928-163-1175  
LASHLEY, H. R.  
Sylvia R. Boyer  
1612 S. Cooper